## INTEREST ON OVERPAYMENTS

## 39-21-110

1) Rate. Where interest is allowed, interest shall be paid upon the allowance of a credit or refund of any tax and upon any penalty or interest erroneously or illegally paid at the rate imposed under §39-21-110.5, C.R.S.

## 2) Date of Overpayment

- a) For the purpose of this section the date of overpayment shall mean the date upon which such tax, penalty and interest was paid or the due date of the return, whichever is later. The date of overpayment for the carryback of a net operating loss, capital loss, or tax credit is the last day of the tax year in which the loss occurred or the credit was generated.
- b) Interest on an overpayment will be computed from the date of overpayment of such tax, penalty, or interest to the date the order for refund or credit is issued.
- 3) **Refund Paid Within Ninety Days.** Except as otherwise required by law, no interest will be paid in any case where the refund of the overpayment is issued by the Department within ninety days of the due date of the return.
- 4) **Excessive Prepayments.** Due to the burden articulated in §39-21-110(1.5)(b):
  - a) If the total prepayments (withholding, estimated payments, extension payments, sales tax refund, and other payments) are more than double the amount of the net tax liability, then no refund interest will be paid on any refund.
  - b) If an amended return or claim for refund reduces the net tax liability or increases the prepayments, no refund interest will be paid on any refund if the total prepayments and prior payments are more than double the amount of the amended net tax liability.
  - c) If the taxpayer establishes that the prepayment was made incident to a bona fide and orderly discharge of an actual liability, or a liability reasonably assumed to be imposed by law, then interest will be paid.
- 5) **Income Tax Overpayments.** For income tax overpayments, see regulation 39-22-622 and HB 09-1219.